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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No.

2011-1

12 **CYNTHIA GALE ELY, AKA'S CYNTHIA**
13 **G. JACKSON, CYNTHIA G. SCOGGAN**
4203 E. Avenue S4
14 Palmdale, CA 93552

ACCUSATION

15 **Registered Nurse License No. RN 445542**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about August 31, 1989, the Board of Registered Nursing (Board) issued
24 Registered Nurse License No. 445542 to Cynthia Gale Ely, Aka's Cynthia G. Jackson, Cynthia G.
25 Scoggan (Respondent). The Registered Nurse License was in full force and effect at all times
26 relevant to the charges brought herein and will expire on December 31, 2010, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board, under the authority of the following

1 laws. All section references are to the Business and Professions Code unless otherwise indicated.

2 STATUTORY PROVISIONS

3 4. Section 490 states:

4 “(a) In addition to any other action that a board is permitted to take against a licensee, a
5 board may suspend or revoke a license on the ground that the licensee has been convicted of a
6 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
7 or profession for which the license was issued.

8 “(b) Notwithstanding any other provision of law, a board may exercise any authority to
9 discipline a licensee for conviction of a crime that is independent of the authority granted under
10 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
11 of the business or profession for which the licensee's license was issued.

12 “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
13 conviction following a plea of nolo contendere. Any action that a board is permitted to take
14 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
15 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
16 made suspending the imposition of sentence, irrespective of a subsequent order under the
17 provisions of Section 1203.4 of the Penal Code.”

18 5. Section 2750 provides, in pertinent part, that the Board may discipline any licensee,
19 including a licensee holding a temporary or an inactive license, for any reason provided in Article
20 3 (commencing with section 2750) of the Nursing Practice Act.

21 6. Section 2761 states:

22 “The board may take disciplinary action against a certified or licensed nurse or deny an
23 application for a certificate or license for any of the following:

24 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

25

26 “(f) Conviction of a felony or of any offense substantially related to the qualifications,
27 functions, and duties of a registered nurse, in which event the record of the conviction shall be
28 conclusive evidence thereof.”

1 7. Section 2762 states:

2 “In addition to other acts constituting unprofessional conduct within the meaning of this
3 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
4 chapter to do any of the following:

5

6 “(b) Use any controlled substance as defined in Division 10 (commencing with Section
7 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
8 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
9 himself or herself, any other person, or the public or to the extent that such use impairs his or her
10 ability to conduct with safety to the public the practice authorized by his or her license.

11 “(c) Be convicted of a criminal offense involving the prescription, consumption, or
12 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
13 or the possession of, or falsification of a record pertaining to, the substances described in
14 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
15 thereof.”

16 8. Section 2764 provides, in pertinent part, that the expiration of a license shall not
17 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
18 to render a decision imposing discipline on the license. Under section 2811(b), the Board may
19 renew an expired license at any time within eight years after the expiration.”

20 REGULATORY PROVISIONS

21 9. California Code of Regulations, title 16, section 1444, states, in pertinent part:

22 “A conviction or act shall be considered to be substantially related to the qualifications,
23 functions or duties of a registered nurse if to a substantial degree it evidences the present or
24 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
25 safety, or welfare.

26 Such convictions or acts shall include but not be limited to the following:

27 “(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
28 subdivision (d) of Penal Code Section 11160.

1
2 “(c) Theft, dishonesty, fraud, or deceit.”

3 **COST RECOVERY**

4 10. Section 125.3 provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licensee found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Conviction of Substantially-Related Crimes)**

10 11. Respondent is subject to disciplinary action under sections 2761, subdivisions (a) and
11 (f) and 490, as defined in California Code of Regulations, title 16, section 1444, in that
12 Respondent has been convicted of crimes substantially related to the qualifications, functions or
13 duties of a registered nurse, as follows:

14 a. On or about April 27, 2010, after pleading *nolo contendere*, Respondent was
15 convicted of one misdemeanor count of violating Penal Code section 415 [any person who
16 unlawfully fights in a public place], in the criminal proceeding entitled *The People of the State of*
17 *California v. Cynthia Gale Ely* (Super. Ct. Los Angeles County, 2010, No. 9BR02243).
18 Respondent was sentenced to 24 days in the Los Angeles County Jail, and fined. The
19 circumstances surrounding the conviction are that on or about June 25, 2009, two Burbank Police
20 Officers were dispatched to investigate a woman down at the Metrolink parking lot. Upon arrival
21 at the scene, the officers found Respondent lying on the pavement in the parking lot behind a
22 parked vehicle with symptoms of alcohol intoxication. Respondent had an odor of an alcoholic
23 beverage emitting from her person, and stated, “she had quite a few beers during the course of the
24 night and was still feeling the effects of the alcohol.” Respondent was subsequently convicted of
25 violating Penal Code section 415 [any person who unlawfully fights in a public place.]

26 b. On or about September 10, 2009, after pleading *nolo contendere*, Respondent was
27 convicted of one felony count of violating Penal Code section 594 [vandalism], in the criminal
28 proceeding entitled *The People of the State of California v. Cynthia Gale Ely* (Super. Ct. Los

1 Angeles County, 2009, No. ATPMA04660701). Respondent was sentenced to 120 days in the
2 Los Angeles County Jail, placed on a period of three years probation, and fined. The
3 circumstances surrounding the conviction are that on or about August 18, 2009, Respondent
4 committed acts of vandalism.

5 c. On or about October 28, 2008, after pleading *nolo contendere*, Respondent was
6 convicted of one misdemeanor count of violating Penal Code section 647, subdivision (f) [drunk
7 in public], in the criminal proceeding entitled *The People of the State of California v. Cynthia*
8 *Gale Ely* (Super. Ct. Los Angeles County, 2008, No. 8AV08007). Respondent was sentenced to
9 120 days in the Los Angeles County Jail, placed on a period of 36 months probation, and fined.
10 The circumstances surrounding the conviction are that on or about June 12, 2008, two on duty
11 Los Angeles Sheriff Officers responded to a call regarding a suicide attempt. Upon arrival, the
12 officers observed Respondent laying in the gutter of the parking lot pouring a can of beer over her
13 head. Respondent had a strong odor of an alcoholic beverage emitting from her breath and
14 person, slurred speech, glassy red eyes, and was unable to walk without assistance. Respondent
15 stated, "If she was not so drunk she would run in front of a moving vehicle killing herself."
16 Respondent was subsequently convicted of violating Penal Code section 647, subdivision (f)
17 [drunk in public.]

18 d. On or about August 29, 2009, after pleading *nolo contendere*, Respondent was
19 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a)
20 [driving under the influence of alcohol and/or drugs], in the criminal proceeding entitled *The*
21 *People of the State of California v. Cynthia Gale Ely* (Super. Ct. Los Angeles County, 2006, No.
22 6AV04635). Respondent was sentenced to 90 days in the Los Angeles County Jail, placed on a
23 period of 60 months probation, and fined. The circumstances surrounding the conviction are that
24 on or about May 18, 2006, Respondent was found to be driving a vehicle, while under the
25 influence of alcohol and/or drugs.

26 e. On or about June 14, 2006, after pleading *nolo contendere*, Respondent was
27 convicted of one misdemeanor count of violating Penal Code section 148, subdivision (3)(a)
28 [false emergency report], in the criminal proceeding entitled *The People of the State of California*

1 v. *Cynthia Gale Ely* (Super. Ct. Los Angeles County, 2006, No. 6AV0334101). Respondent was
2 sentenced to 365 days in the Los Angeles County Jail, and fined. The circumstances surrounding
3 the conviction are that on or about April 23, 2006, Respondent filed a false emergency report
4 violating Penal Code section 148, subdivision (3)(a) [false emergency report.]

5 f. On or about June 14, 2006, after pleading *nolo contendere*, Respondent was
6 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
7 [driving while having a 0.8% or higher blood alcohol content], in the criminal proceeding entitled
8 *The People of the State of California v. Cynthia Gale Ely* (Super. Ct. Los Angeles County, 2006,
9 No. 6AV02894). Respondent was sentenced to 180 days in the Los Angeles County Jail, placed
10 on a period of 36 months probation, and fined. The circumstances surrounding the conviction are
11 that on or about March 21, 2006, during a traffic enforcement stop for not having headlights,
12 Respondent was found to be driving a vehicle, while having a 0.08% and more, by weight, of
13 alcohol in her blood. Respondent was convicted of violating Vehicle Code section 23152,
14 subdivision (b) [driving while having a 0.8% or higher blood alcohol content.]

15 g. On or about September 12, 2005, after pleading *nolo contendere*, Respondent was
16 convicted of one misdemeanor count of violating Penal Code section 653, subdivision (x)(a)
17 [annoying calls to 911], in the criminal proceeding entitled *The People of the State of California*
18 *v. Cynthia Gale Ely* (Super. Ct. Los Angeles County, 2005, No. 5AT04163). Respondent was
19 sentenced to 20 days in the Los Angeles County Jail, placed on a period of 36 months probation,
20 and fined. The circumstances surrounding the conviction are that on or about January 01, 2005,
21 Respondent committed acts that intentionally annoyed harassed another person. Respondent was
22 subsequently convicted of violating Penal Code section 653, subdivision (x)(a) annoying calls to
23 911.]

24 SECOND CAUSE FOR DISCIPLINE

25 (Dangerous Use of Alcohol)

26 12. Respondent is subject to disciplinary action under sections 2762, subdivisions (b),
27 and (c), in that Respondent used alcoholic beverages and/or drugs to an extent or in a manner
28 dangerous or injurious to herself, and the public. Respondent was under the influence of alcohol

1 and/or drugs, while posing danger to herself and the general public. Respondent also drove a
2 vehicle, while under the influence of alcohol and/or drugs. Complainant refers to, and by this
3 reference incorporates, the allegations set forth above in paragraph 11, subparagraphs (a), (c), (d),
4 and (f), inclusive, as though set forth fully.

5 THIRD CAUSE FOR DISCIPLINE

6 (Convictions Involving the Consumption of Alcohol and/or Drugs)

7 13. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and
8 (f), as defined in section 2762, subdivisions (b) and (c), in that Respondent was convicted of
9 crimes involving the consumption of alcohol and/or drugs. Complainant refers to, and by this
10 reference incorporates, the allegations set forth above in paragraph 11, subparagraphs (a), (c), (d),
11 and (f), inclusive, as though set forth fully.

12 FOURTH CAUSE FOR DISCIPLINE

13 (Fraudulent and Dishonest Acts)

14 14. Respondent is subject to disciplinary action under California Code of Regulations,
15 title 16, section 1444, subdivision (c), in that Respondent was convicted of crimes that involved
16 fraudulent and dishonest acts. Complainant refers to, and by this reference incorporates, the
17 allegations set forth above in paragraph 11, subparagraphs (b), (e), and (g), inclusive, as though
18 set forth fully.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board issue a decision:

22 1. Revoking or suspending Registered Nurse License No. 445542, issued to Cynthia
23 Gale Ely, Aka's Cynthia G. Jackson, Cynthia G. Scoggan;

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28 2. Ordering Cynthia Gale Ely, Aka's Cynthia G. Jackson, Cynthia G. Scoggan to pay

1 the Board the reasonable costs of the investigation and enforcement of this case, pursuant to
2 Business and Professions Code section 125.3; and

3 3. Taking such other and further action as deemed necessary and proper.

4
5 DATED: _____

7/1/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

9 LA2010502534
10 accusation.rtf
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